IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 364 OF 2002

Rajendra Kashinath Badgujar,)
Ex-casual labourer with)
temporary Status, under Bridge)
Engineer, Central Railway,)
Manmad, Residing at Post :)
Phagane, Dist. Dhule.).... Petitioner.

Versus

1) The Union of India,)
   through the General Manager,)
   Central Railway, Headquarters)
   Office, Mumbai CST, Mumbai)
   400 001. ... ...)
2) The Chief Engineer,)
   Central Railway, Byculla,)
   Mumbai.)
3) The Bridge Engineer,)
   Central Railway, Manmad.).... Respondents.

Mr. D. V. Gangal with Mr. S. V. Morne
for the Petitioner.

Mr. Suresh Kumar for the Respondents.

CORAM : V.G. PALSHIKAR, and
V.R.KINGAONKAR, JJ.
DATED : 12TH APRIL, 2006.

JUDGMENT (Per : V.R.KINGAONKAR, J.):

Being aggrieved by the dismissal of his petition bearing Original Application No. 1050 of 1993 and Review Petition No. 69 of 2000 by the Central Administrative Tribunal, Mumbai (for short "Tribunal") the Petitioner has invoked writ jurisdiction of this Court.

2. The Petitioner was appointed as a casual labourer in the Central Railway, Manmad, w.e.f. 23rd December, 1987. He was subjected to medical examination and was being given monthly pay w.e.f. 1988. He was granted not absorbed as a regular employee. His services were terminated by an order dated 17th May, 1993 on the ground that there was no further sanction to the project. He assailed the order of termination before the Tribunal. His application came to be rejected and the Tribunal held that the Petitioner was only a monthly rated casual labourer without granting of temporary status. The Tribunal held that the

Petitioner is not entitled to get any legal protection in as much his services were temporarily hired and he was only a casual labour.

3. We have heard learned Counsel for the parties. On behalf of the Petitioner, it is contended that the services of the Petitioner could not be terminated without holding any inquiry. The learned Counsel pointed out from copy of reply filed by the Respondents in Original Application No.1050 of 1993 that the service card produced by the Petitioner was branded as false. If that was so, it is argued, then holding of regular enquiry was necessary prior to the termination of his services. It is argued that the case of the Petitioner is not properly considered by the Tribunal and it has been wrongly held that his case is similar to another Applicant by name Allwyn John Shikari. Learned Counsel urged, therefore, to allow the Petition and order reinstatement of the Petitioner by regularising his services from 18th May, 1990. On the other hand learned Counsel, Shri Suresh Kumar, appearing for the Respondents, supports the impugned orders.

4. Before we proceed to examine merits in the rival contentions, let it be noted that the Petitioner was

engaged as Casual Labour under the Executive Engineer (Modernisation) at the Chief Engineer Workshop, Manmad. The termination order (Exhibit "A") go to show that the services were terminated "due to non-availability of further sanction". In other words, the project was completed and there was no sanction for further continuation thereof. It is not the case that the services of the Petitioner were terminated only because his service card No. 184332 was found to be bogus/false. It appears from copy of the reply submitted by the Respondents (Exhibit "B") that the project, on which the Petitioner was working, had to be wound up at the end of year 1992 due to completion of major work. The termination was caused due to winding up of the project itself and name of the Petitioner was not subsequently recommended for absorption because his previous service card was found to be bogus. Thus, the termination is mainly on the ground that the relevant project was completed and was wound up.

5. It appears that the Petitioner was never granted temporary status and continued to work as casual labour. He was not entitled to claim absorption as a matter of right. The services were terminated by giving one month’s notice and he was paid wages during

the notice period as also retrenchment compensation. Our attention was invited by the learned Counsel for the Petitioner to the observations of the Tribunal that case of Petitioner is similar to that of Allwyn John Shikari and, therefore, the Original Application came to be dismissed. A copy of the order passed in Original Application No. 1049 of 1993 (Exhibit "E") is also filed by the Petitioner. It is manifest from the observations in para 5 of the said order that the Tribunal had not gone into the question of bogus labour card procured by the said Petitioner - Allwyn. The Original Application filed by Allwyn John Shikari was dismissed mainly for the reason that he was only a casual labourer and the project had come to an end. The Tribunal observed: "If the services are terminated for want of work or on the ground that sanction to the project has come to an end, it cannot be said that the order of termination is illegal and arbitrary, particularly when the Applicant is not a permanent railway servant, but is only a causal labourer".

6. It appears from the impugned order that the reasons quoted above were adopted while dismissing the application filed by the present Petitioner. We do not find any substantial error committed by the

Tribunal while rejecting the claim of the Petitioner. As stated earlier, termination notice (Exhibit "A") dated 17th May, 1993 would make it clear that the Petitioner's service was terminated due to non-availability of further sanction. Needless to say, it was not the result of any punitive action taken against him. The termination simplicitor due to absence of sanction to continue the relevant project cannot be regarded as illegal. The Petitioner is not entitled to claim regularisation of his services and consequential benefits.

7. Reliance was placed on certain observations in the case of **Inder Pal Yadav and others v/s Union of India and others**, 1985 (2) All ISLJ 58. The Apex Court directed preparation of a list of project casual labour with reference to each division of each railway zones and then start absorbing those with the longest casual services. The scheme was specifically prepared in respect of those casual labours working after the completion of the projects. The Petitioner is not covered by the said order in as much as the said order covered casual labours working on project on or before 1st January, 1984 and had completed 360 days. In case of **State of Himachal Pradesh v/s Suresh Kumar Verma and another,** AIR 1996 SC 1565, it has been laid down

that termination of daily wage employee due to coming to end of project is quite legal and the Court cannot give direction to re-engage them in other work or appoint them against the existing vacancy. Otherwise the judicial process would become other mode of recruitment dehors the rules.

8. We find that the Petitioner was a casual labour without any right to continue as such. His termination is not stigmatic. The termination is outcome of administrative exigency since the project itself had to be wound up. Under the circumstances, we do not find any substantial error committed by the Tribunal and as such there is no substance in the present petition. Hence, it is dismissed. Rule discharged. No order as to costs.

Sd/-

(V.G.PALSHIKAR, J.)

Sd/-

(V.R.KINGAONKAR, J.)